IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1380 OF 2006

IN

SUMMONS FOR JUDGMENT NO. 483 OF 2005

IN

SUMMARY SUIT NO. 3568 OF 2004

Asian Paints Industrial Coatings Ltd ....Plaintiffs.

vs.

M/s. Jiwa Appliance Ltd ....Defendants.

Mr. Amit Vyas i/by. Rajani Associates for the plaintiffs to show cause

Mr. S.S. Joshi for the defendants in support.

CORAM: S.J. VAZIFDAR, J.

NOVEMBER 15, 2006.

P.C. :

1. This is an application for setting aside the ex-parte decree dated 2/11/2004. The only ground is

that the defendant has not received the Summons for Judgment. The defendant actually refused service. The excuse that there is a labour problem at the factory is untanable. There is nothing to suggest that correspondence was not received by the defendant. As a result thereof, there is no explanation as to how the defendant came to know about the decree. The defendant chose to appear only after the decree was passed.

2. Even on merits there is absolutely no evidence. There are acknowledgment of liabilities and promises to pay by the defendants. In the circumstances, the Notice of Motion is dismissed with costs fixed at Rs.2500/- to be payable by the defendant to the plaintiff within two weeks from today.

sd/-

(S.J.VAZIFDAR, J)